IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Tr.P(C).No. 224 of 2007()

OP.894/2006 of FAMILY COURT,KOZHIKODE

.....

: PETITIONER/RESPONDENT

NISHA K., D/O BALAKRISHNAN,
NIZHA NIVAS, ALACHERI P.O.

BY ADV. SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.

RESPONDENT: PETITIONER

JITHESH, S/O NARAYANAN NAIR,
ULOOR MEETHAL HOUSE,
AVIDANALLOOR AMSOM AND DESOM,
KOYILANDY TALUK, P.O.AVIDANALLOOR,
KOZHIKODE DISTRICT.

BY ADV. SRI.K.P.SUDHEER

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2007, ALONG WITH Tr.P(Crl) NO. 68 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON IA 2560/07 IN TR.P(C) 224/07

DISMISSED.

SD/- M.N.KRISHNAN, JUDGE.

27.11.2007

M.N.Krishnan, J.

==========

Tr.P(C).No.224 of 2007

&

Tr.(Crl)No.68 of 2007

==========

Dated this the 27th day of November, 2007.

JUDGMENT

Tr.P.(C) No.224 of 2007 is filed by the wife to transfer O.P.No.894 of 2006, which is an application for divorce filed by the husband pending before the Family Court, Kozhikode. Tr.P. (Crl.)No.68 of 2007 is filed by the husband, who is the counter petitioner in M.C.No.204 of 2007 pending before the Family Court, Kannur. The unfortunate couple's relationship lasted only for two months and both have approached the court in different platform and I am informed that the counselling has been over and the attempt to reunion has also failed.

2. It is averred by the wife that she belongs to an interior part of Kannur District and to reach Kozhicode she has to spend considerable amount and further there is nobody to accompany her and therefore, she requests that her Transfer Petition may be

allowed. On the other hand, learned counsel for the respondent - husband would contend that the M.C. case is only a counter blast to the divorce petition and the divorce petition being filed first, which is the main case necessarily the transfer of maintenance case has to be done to Kozhikode. It has to be stated that the comparative hardship of the parties has to govern the field of transfer and the wife submits that she is not having the support of anybody and she is a neglected wife and there is financial difficulty also for her.

3. So when the comparative hardship is considered, the wife stands in a better position than the husband and therefore I direct the Family Court, Kozhikode to transfer O.P.No.894 of 2006 pending before it to the Family Court, Kannur. Since the counselling is already over, day to-day presence of the husband shall not be insisted unless the case is posted for trial. If an application is moved for exemption that may be considered sympathetically, so that undue hardship to the husband also may be averted. Since the couple had separated within a short span of time after the marriage, I direct the Family Court, Kannur to consider whether this petition can be taken and disposed of as

expeditiously as possible.

Tr.P(Crl.)No.68/2007

In the light of the judgment in Tr.P.(C)No.224 of 2007, Tr.P (Crl.) No.68 of 2007 is dismissed.

M.N.Krishnan,
Judge.

ess 27/11